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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,257	01/22/2002	Frederick R. Bean	TN-2239	3692
7590	03/09/2004		EXAMINER	
Adan Ayala, Esq. Black & Decker Inc. 701 E. Joppa Road, TW-199 Towson, MD 21286			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	8
DATE MAILED: 03/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/054,257	BEAN ET AL.	
	Examiner	Art Unit	
	Phong H Nguyen	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 November 2002.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 22 November 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 7.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Specification

1. The Specification is objected under 37 C.F.R 1.71 for not pointing out the functions of a tab 71A and whether an lower blade guard 32 being pivotable with respect to an upper blade guard.

Drawings

2. The drawings are objected under 37 C.F.R 1.84 for not clearly illustrating saw's components that described in the Specification. Formal drawings are required in this application. The formal drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
3. The drawings are objected to under 37 CFR 1.83(a) because of the following reasons:
 - Figs. 10, 11A and 11B do not show how a lower blade guard 32 being secured to an upper blade guard 31 and the plate 70. It is unclear that the plate 70 and the lower guard 31 are disposed on one side or two sides of the upper blade guard 31.
 - Fig. 2 does not match with Fig. 1. In Fig. 2, it appears that the bottom of a table 12 rests on the top surface of a base assembly 11. In Fig. 1, both surfaces appear being flushed.

-It is unclear whether the lower blade guard is pivotable with respect the upper blade guard.

-A fixed fence and a sliding fence in Fig. 1 are not differentiable.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. A proposed drawing correction or corrected drawings is required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "21" and "22" have both been used to designate a sliding fence. See page 7, line 20 and page 8, line 1. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

From Fig. 2, it appears that a L-shaped cross-section wearing ring elevates the top surface

of the table 12 above the top surface of the base assembly 11 which prevents the saw assembly to function properly. In order to function properly, both surfaces must be flushed.

7. Claims 13-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 13, it is unclear what the function of the first tab 71A is. It appears that the upper blade guard 31, the lower blade guard 32 and the plate 70 can be secured together without the tab 71A.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-7 and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Brault et al. (6,431,042 B1). Brault et al. teach a miter saw comprising a base assembly, a rotatable table 146, a saw assembly 150 and a wearing ring 110. See Figs. 1 and 5-7.

10. Claims 9 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Stumpf et al. (6,418,830 B1). Stumpf et al. teach a miter saw comprising a base assembly 12, a rotatable 14, a saw assembly 16, fixed fences 48 and 50 and sliding fences 32 and 34. See Figs. 1, 2, 5, 6, 8A, 8B, and 19.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumpf et al. (6,418,830 B1). Stumpf et al. teach everything but do not teach the size of the holes on the fixed fences, the sliding fences and the base assembly for inserting clamping screws 68 and 44 in order to secure the sliding fences to the fixed fences and the fixed fences to the base. Official notice is taken that providing holes to accommodate the size of the clamping screws 68 and 44 is considered to be routine skill in the art. Therefore, it would have been obvious to provide 3/16-inch holes to the sliding fence, the fixed fences and the base assembly for securing the fixed fences to the sliding fences and the fixed fences to the base assembly.

Conclusion

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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chang (6,279,442 B1), Benedict et al. (5,950,514), Brundage et al. (5,042,348), Chang (5,855,366), Wixey et al. (5,595,124), Chen (5,778,747) and Brunson (6,474,206 B1) teach miter saws of general interest.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 703-305-4989. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: 

March 3, 2004

Allan N. Shoap
Supervisory Patent Examiner
Group 3700